

AMENDED IN SENATE APRIL 14, 2010

**SENATE BILL**

**No. 1396**

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**Introduced by Senator Lowenthal**

(~~Coauthor: Assembly Member~~ *Coauthors: Assembly Members  
Bonnie Lowenthal and Villines*)

February 19, 2010

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An act to add and repeal Chapter 3 (commencing with Section 63060) of Part 35 of Division 4 of Title 2 of the Education Code, relating to education funding.

LEGISLATIVE COUNSEL'S DIGEST

SB 1396, as amended, Lowenthal. Education funding: maximum categorical education flexibility pilot program.

Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2008–09 to 2012–13 fiscal years, inclusive, to apportion from the amount provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2008–09 fiscal year for those programs and authorizes school districts, for those fiscal years, to use these funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law. Existing law, for those fiscal years, deems local educational agencies that use these categorical education program funds for any educational purpose to be in compliance with the program and funding requirements of those categorical education programs.

Existing law, as a condition of receiving the categorical education program funds that may be used for any educational purpose, requires

school districts and county offices of education, at a regularly scheduled, open, public hearing, to take testimony from the public, discuss, and approve or disapprove the proposed use of funding. Existing law requires a local educational agency to report expenditures, as specified, to indicate the activities for which these funds were expended and requires the department annually to collect and provide this information to the appropriate legislative policy and budget committees and the Department of Finance.

This bill would establish the 3-year Maximum Categorical Education Flexibility Pilot Program in which 3 school districts would be selected to participate. To be eligible for selection, a school district would be required to meet certain preconditions, including developing a plan or initiative to accelerate pupils' progress to proficiency that includes ~~measurable metrics to improve pupil performance, closing the achievement gap, increasing college entrance rates, and increasing career readiness~~ *specified goals*. A school district selected to participate would be required to agree to demonstrate significant progress toward accelerating pupils' progress toward proficiency on California's academic standards over the 3-year pilot project period, a narrowing of the achievement gap in its federally recognized subgroups, fiscal solvency, positive growth on the district API, improvement in its college entrance rate, and an increase in its graduation rate.

The bill would require the Superintendent to apportion to the participating school districts a categorical education block grant based on the funding those school districts received in the 2009–10 fiscal year for specified programs, including the Economic Impact Aid Program, the Class Size Reduction Program, Child Nutrition Programs, and Transportation Programs.

A participating school district would be allowed to use the block grant funds for any purpose related to improving pupil achievement and academic instruction and would be required to implement an open and transparent process that allows public input when discussing and deciding on the expenditure of categorical education block grant funds. A participating school district would be deemed to be in compliance with the program and funding requirements associated with the categorical education programs included in the block grant, *except that a participating school district that receives funding for economic impact aid would be required to continue to designate staff to coordinate services and programs for English learners, including the home*

*language survey, and to continue in existence parent advisory committees and schoolsite councils.*

A participating school district would be required to submit an evaluative annual report to the department, the state board, the Governor, and the Legislature and to submit to the department an annual expenditure report. *The Legislative Analyst's Office would be required to conduct a final evaluation report that identifies the success and failures of the pilot program and makes recommendations regarding improving the pilot program and whether the program should be continued.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds and declares all of the
- 2     following:
- 3     (a) California school districts are facing immeasurable
- 4     challenges managing reductions in state funding and need
- 5     maximum flexibility in the ways they can utilize restricted funding
- 6     from the state.
- 7     (b) The pilot project enacted by this act would give three school
- 8     districts maximum flexibility by creating a new categorical program
- 9     block grant that would include all the funding for categorical
- 10    education programs received by the district and allow that funding
- 11    to be used for any purpose related to improving pupil achievement
- 12    and academic instruction.
- 13    (c) The pilot project will demonstrate to state policymakers that
- 14    state money for categorical education programs can be managed
- 15    more efficiently and effectively by school districts to meet the
- 16    academic needs of all pupils and result in progress in closing the
- 17    achievement gap.
- 18    (d) Maximum categorical program flexibility will enhance a
- 19    school district's ability to support academic and career goals for
- 20    all pupils and provide systematic, differentiated instruction and
- 21    interventions to accelerate pupils' progress to proficiency.
- 22    (e) The pilot program will allow the state to evaluate the benefits
- 23    of maximum categorical program flexibility and ensure that
- 24    flexibility, when used correctly, will result in gains in pupil
- 25    achievement.

SEC. 2. Chapter 3 (commencing with Section 63060) is added to Part 35 of Division 4 of Title 2 of the Education Code, to read:

CHAPTER 3. MAXIMUM CATEGORICAL EDUCATION FLEXIBILITY  
PILOT PROGRAM

63060. The Maximum Categorical Education Flexibility Pilot Program is hereby established. The pilot project shall be implemented during the 2011–12, 2012–13, and 2013–14 fiscal years. The Superintendent ~~shall~~ *may* select three school districts to participate in the pilot project.

63061. (a) In order to be eligible to apply for selection, a school district shall meet the following preconditions:

(a)

(1) The school district has a plan or initiative, *developed in conjunction with parents and teachers*, to accelerate pupils' progress to proficiency. The plan shall include measurable metrics to improve pupil performance, close the achievement gap, increase college entrance rates, and increase career readiness.

(b)

(2) The governing board of the school district has approved the plan and developed corresponding policies in support of the plan.

(c)

(3) The *annual* evaluation of the performance of the superintendent of the school district is linked to ~~pupil performance goals~~ *the pupil performance goals specified in subdivision (a)*.

(d)

(4) The school district can demonstrate a pattern of stability between management and the bargaining units.

(e)

(5) There is community support for the plan.

(6) *At least one-half of the permanent teachers and one-half of the surveyed parents or legal guardians in the district support participation in the pilot program, and that support is demonstrated in writing.*

(7) *The standards-based curriculum for English learners is cognitively complex, coherent, well articulated, meaningful, and will enable English learners to learn English quickly and fluently so that they may participate fully in the grade-level curriculum. At a minimum, the program shall provide all of the following:*

1 (A) *Support for English learners who are new to the district.*

2 (B) *An English language development program that is*  
3 *comprehensive and standards aligned and that has all of the*  
4 *following characteristics:*

5 (i) *Actively develops all domains of language.*

6 (ii) *Addresses varying levels of English fluency.*

7 (iii) *Develops age-appropriate and context-appropriate*  
8 *language, including an emphasis on academic English.*

9 (iv) *Includes opportunities for English learners to interact with*  
10 *native English speaking peers.*

11 (v) *Creates a supportive learning environment for language*  
12 *learning.*

13 (vi) *Recognizes the role of primary language development.*

14 (C) *Full access to a challenging curriculum.*

15 (D) *High-quality instruction and materials.*

16 (E) *An inclusive and affirming school climate.*

17 (F) *Valid, comprehensive, and useful assessments.*

18 (G) *Strong family partnerships.*

19 (H) *A qualified educator workforce.*

20 (b) *At a minimum, the Superintendent shall consider the quality*  
21 *and rigor of the preconditions outlined in subdivision (a).*

22 (c) *Nothing in this section shall be construed as imposing new*  
23 *mandates on school districts.*

24 63062. A school district selected to participate in the pilot  
25 project shall agree to demonstrate all of the following:

26 (a) Significant progress toward accelerating pupils' progress  
27 toward proficiency on California's academic standards over a  
28 three-year period, *as measured by the annual assessments*  
29 *administered pursuant to Article 4 (commencing with Section*  
30 *60640) of Chapter 5 of Part 33 and any other local, state, or*  
31 *national assessments.*

32 (b) A narrowing of the achievement gap in the district's federally  
33 recognized subgroups, *as measured by the annual assessments*  
34 *administered pursuant to Article 4 (commencing with Section*  
35 *60640) of Chapter 5 of Part 33 and any other local, state, or*  
36 *national assessments.*

37 (c) Fiscal solvency, *as measured by the standards and criteria*  
38 *adopted by the state board pursuant to Section 33127 and*  
39 *implementing regulations.*

(d) Positive growth, as measured by the district's API score, *the annual assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, and any other local, state, or national assessments.*

(e) An increase in the district's graduation rate, *as measured by the California Longitudinal Pupil Achievement Data System and the school district level data system.*

(f) Improvement in the district's college entrance rate, *as measured by the National Student Clearinghouse or other state-approved pupil data tracking system.*

(g) *The number of pupils who enter technical school after graduation, as measured by the National Student Clearinghouse or other state-approved pupil data tracking system.*

63063. The Superintendent shall apportion to the school districts selected for participation in the pilot project a categorical education block grant that is based on the funding those school districts received in the 2009–10 fiscal year for the budget items listed in paragraph (2) of subdivision (a) of Section 42605 and ~~budget—items~~ *Items 6110-111-0001, 6110-119-0001, 6110-128-0001, 6110-130-0001, 6110-158-0001, 6110-166-0001, 6110-196-0001, 6110-201-0001, 6110-202-0001, 6110-203-0001, 6110-220-0001, 6110-224-0001, and 6110-234-0001 of Section 2.00 of the annual Budget Act.* The amount of the categorical education block grant shall be adjusted for cost of living and growth in fiscal years that state funding is appropriated for those purposes.

63064. (a) Notwithstanding any other law, a participating school district may use the categorical education block grant funds that it receives pursuant to ~~subdivision (e) Section 63063~~ for any purpose related to improving pupil achievement and academic instruction, *except as provided in subdivision (b).*

(b) *With respect to funds received pursuant to Item 6110-128-0001 of Section 2.00 of the annual Budget Act, a participating school district shall use these funds to supplement the base program provided to English learners and economically disadvantaged pupils, as those terms are defined in Section 54026.*

(c) *It is not the intent of the Legislature to waive requirements of any educational programs enacted through the initiative process.*

(b)

1 (d) A participating school district shall implement an open and  
2 transparent process that allows public input *at a regularly*  
3 *scheduled meeting of the governing board* when discussing and  
4 deciding on the expenditure of categorical education block grant  
5 funds.

6 63065. (a) Notwithstanding any other law, for the 2011–12,  
7 2012–13, and 2013–14 fiscal years, a participating school district  
8 shall be deemed to be in compliance with the program and funding  
9 requirements contained in statutory, regulatory, and provisional  
10 language associated with the items listed in subdivision (c) of this  
11 section and paragraph (2) of subdivision (a) of Section 42605.

12 (b) *Notwithstanding subdivision (a), a participating school*  
13 *district that receives funds pursuant to Item 6110-128-0001 of*  
14 *Section 2.00 of the annual Budget Act shall continue to designate*  
15 *staff to coordinate services and programs, including the home*  
16 *language survey, for English learners and shall continue in*  
17 *existence parent advisory committees and schoolsite councils, as*  
18 *required pursuant to Section 62002.5.*

19 63066. (a) A participating school district shall submit an  
20 evaluative annual report to the department, the state board, the  
21 Governor, and the Legislature that details the progress made during  
22 the immediately prior school year towards the goals set forth in  
23 ~~subdivision (e) Section 63031, including details of the academic~~  
24 *progress made by pupil subgroups.*

25 (b) A participating school district also shall submit to the  
26 department an annual expenditure report, *detailing the expenditure*  
27 *of specific categorical program funds and the purposes for which*  
28 *those funds were expended.*

29 (c) *The Legislative Analyst's Office shall conduct a final*  
30 *evaluation report that identifies the success and failures of the*  
31 *pilot program and makes recommendations regarding improving*  
32 *the pilot program and whether the program should be continued.*

33 64067. ~~This section~~ *chapter shall become inoperative on July*  
34 *1, 2014, and, as of January 1, 2015, is repealed, unless a later*  
35 *enacted statute, that becomes operative on or before January 1,*  
36 *2015, deletes or extends the dates on which it becomes inoperative*  
37 *and is repealed.*